

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JOSEPH MERLINO,

Defendant.

No. 16-cr-522 (RJS)
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

The Court is in receipt of the attached letter from Mr. Merlino's counsel to the Clerk's Office seeking the return of Mr. Merlino's passport. IT IS HEREBY ORDERED THAT the government shall respond to Mr. Jacobs's letter by September 23, 2021.

SO ORDERED.

Dated: September 16, 2021
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation

JACOBS & BARBONE, P.A.

EDWIN J. JACOBS, JR.
ejacobs@jacobsbarbone.law
LOUIS M. BARBONE
lbarbone@jacobsbarbone.law

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
1125 PACIFIC AVENUE
ATLANTIC CITY, NEW JERSEY 08401
PHONE: (609) 348-1125
FAX: (609) 348-3774
WEBSITE: WWW.JACOBSBARBONE.LAW

JOEL S. JUFFE
jjuffe@jacobsbarbone.law
DAVID CASTALDI
dcastaldi@jacobsbarbone.law
MICHAEL A. ORTIZ
mortiz@jacobsbarbone.law

August 31, 2021

Ruby J. Krajick, Clerk
U.S. District Court, Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

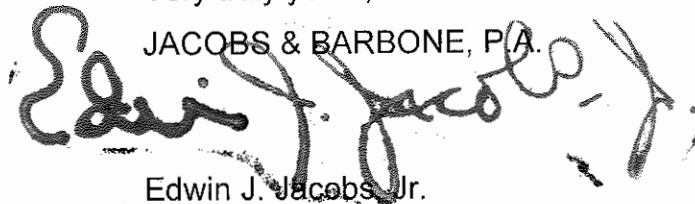
RE: United States v. Joseph Merlino
Docket No. 16-CR-522 (RJS)
Our File No. 15,327

Dear Clerk:

This law firm represents the interests of Joseph Merlino who was discharged from Probation in the Southern District of Florida on July 26, 2021. (Exhibit A). His Probation Officer, James Pierce, told him he should request return of his Passport from the "state department" that was surrendered as a Special Condition of Bond (Exhibit B). We believe the Passport remains in the possession of your office pursuant to the Order of Removal filed in the Southern District of Florida on August 12, 2016, whereby all funds and documents were transferred to the Southern District of New York. (Exhibit C). I would appreciate any assistance you are able to provide in the return of the Passport. Thank you in advance.

Very truly yours,

JACOBS & BARBONE, P.A.



Edwin J. Jacobs, Jr.

EJJ/jmr

Enc.

cc: Joseph Merlino

EXHIBIT A

8/31/2021

IMG_0209.jpg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
PROBATION OFFICE
Tuesday, July 20, 2021

MERLINO, JOSEPH
699 NORTHEAST 4TH STREET
BOCA RATON, FL 33432

Consuelo M. Irimia
Chief United States Probation Officer
Wilkie D. Ferguson, Jr. U. S. Courthouse
400 North Miami Avenue, Ninth Floor South
Miami, FL 33128

NOTICE OF DISCHARGE FROM SUPERVISION

SD/FL Pacts No.: 102473

Date Sentence Imposed: 07/27/2020

Date Sentence Expired: 07-26-2021

Dear Merlino, Joseph

You are hereby discharged from supervision by this office effective 07-26-2021 in reference to Docket No. 0208 1:16CR00522 as noted above.

For U.S. Citizens Only: Depending on the offense of conviction, a person who meets the requirements of Rule 9(A) of the Rules of Executive Clemency, may have his or her civil rights restored by approval of the Clemency Board without a hearing if the person has committed no crimes and has not been arrested for a misdemeanor or felony for five (5) or seven (7) years from the date of completion of all sentences and community supervision and certain requirements are met. Restoration of the right to own, possess or use a firearm requires a separate application to the United States Treasury Department. You must submit an Application for Executive Clemency pursuant to Rule 6 and must be a legal resident of the State of Florida at the time the application is filed, considered, and acted upon.

To obtain an Application for Executive Clemency, please contact the Office of Executive Clemency, 4070 Esplanade Way Tallahassee, Florida 32399-2450, telephone number (850) 488-2952. If you have not satisfied all financial obligations (fine/restitution), or are still on supervision in another case (state/federal), or have any outstanding detainers or pending criminal charges, you are ineligible to apply for restoration, until all pending matters are resolved. To view the Rules of Executive Clemency or obtain an application, please log on to www.fcor.state.fl.us or contact the agency at the address noted above.


James Pearce
US Probation Officer

EXHIBIT B

Case 9:16-mj-08289-16-EJ-08289-DEL2 Document 1828 Filed 09/16/21 Page 48 of 53

DEFENDANT:

JOSEPH MERLINO

CASE NUMBER:

16-8283-DLB

PAGE TWO

SPECIAL CONDITIONS OF BOND

In addition to compliance with the previously stated conditions of bond, the defendant must comply with the special conditions checked below:

- ☒ a. Surrender all passports and travel documents, if any, to the Pretrial Services Office and not obtain any travel documents during the pendency of the case;
- ☒ b. Report to Pretrial Services as follows: ☒ as directed or _____ time(s) a week in person and _____ time(s) a week by telephone;
- ☐ c. Submit to substance abuse testing and/or treatment;
- ☐ d. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802), without a prescription by a licensed medical practitioner;
- ☐ e. Participate in mental health assessment and/or treatment;
- ☐ f. Participate and undergo a sex offense specific evaluation and treatment;
- ☒ g. Maintain or actively seek full-time employment; (MERLINO'S ITALIAN RESTAURANT, CURRENTLY BEING RENOVATED IN SUMMER, TO REOPEN IN FALL. DEFENDANT PERMITTED TO ASSIST IN RENOVATIONS)
- ☐ h. Maintain or begin an educational program;
- ☒ i. Avoid all contact with victims of or witnesses to the crimes charged, except through counsel; + CODEFENDANTS
- ☒ j. Refrain from possessing a firearm, destructive device or other dangerous weapons;
- ☒ k. None of the signatories may sell, pledge, mortgage, hypothecate, encumber, etc., any real property they own until the bond is discharged, or otherwise modified by the Court;
- ☐ l. May not visit commercial transportation establishment: airports, seaport/marinas, commercial bus terminals, train stations, etc.;
- ☐ m. No access to the Internet via any type of connectivity device (i.e. computers, pda's, cellular phones, tv's), and follow instructions as outlined in the agreement waiver provided to you by Pretrial Services;
- ☒ n. **HOME CONFINEMENT PROGRAM** The defendant shall participate in one of the following home confinement program components and abide by all the requirements of the program which ☐ will not or ☒ will include electronic monitoring or other location verification system, paid for by the defendant based upon his/her ability to pay ☒ or paid for by Pretrial Services ☐.
- ☒ Curfew: You are restricted to your residence every day from 7PM to 7AM, or as directed by the Court.
- ☒ Home Detention: You are restricted to your residence at all times except for: ☒ medical needs or treatment, ☒ court appearances, ☒ attorney visits or court ordered obligations, and ☒ other EMPLOYMENT; MEDICAL NEEDS FOR DEFENDANT, HIS WIFE, AND TWO DAUGHTERS WITH VERIFICATION TO PTS DUE TO HEALTHCARE FRAUD ALLEGATIONS
- ☐ o. **HALFWAY HOUSE PLACEMENT** The defendant shall reside at a halfway house or community corrections center and abide by all the rules and regulations of the program.
- You are restricted to the halfway house at all times except for: ☐ employment; ☐ education; ☐ religious services; ☐ medical, substance abuse, or mental health treatment; ☐ attorney visits; ☐ court appearances; ☐ court ordered obligations; ☐ reporting to Pretrial Services; and ☐ other
- ☒ p. May travel to and from: RESTRICTED SDCL, SDNY, ED PA (INCLUDING ATTORNEY VISITS AND PARENT'S COLLEGE WEEKEND FOR DAUGHTER - SEPT 15-19/2016), ED NY (FOR AIRPORT TRAVEL ONLY) DISTRICT OF NEW JERSEY, and must notify Pretrial Services of travel plans before leaving and upon return.
- ☐ q. Comply with the following additional conditions of bond: ALL STANDARD CONDITIONS, CO-SIGNED BY WIFE, DEBORAH MERLINO AND FRIENDS, DAVID McCAFFREY + ANTHONY MARANO, \$500,000 SECURED BY 48 PROPERTIES OWNED BY 3 CO-SIGNERS.

EXHIBIT C

Case 9:16-mj-08283-DLB Document 1828 Filed 09/16/21 Page 52 of 53

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

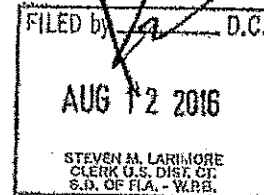
Case No. 16-8283-DLB

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH MERLINO,
Defendant.



ORDER OF REMOVAL

A(n) Complaint
 X Indictment
 Information
 Probation Violation Warrant
 Bench Warrant

having been filed in the SOUTHERN District of NEW YORK charging the above named
defendant with 18:1962(d) and the defendant having

 surrendered
 X been arrested

in the Southern District of Florida, having had an initial appearance before the Court and having:

 X waived further hearing
 been given a hearing in accordance
with Fed.R.Crim.P. 40

and having posted the bail as set by the Court, it is thereupon

ORDERED AND ADJUDGED as follows:

1. The defendant is held to answer in the District in which

Case 9:16-mj-03828-BJB-03263 Doc 12 Entered in Filed 08/12/16 Page 26 of 53

the charge is outstanding and shall appear before the District Court thereof at such time and place as may be ordered; and

2. All funds and documents filed with the Clerk of court in this case shall be transferred to the District where the charge is outstanding.

DONE AND ORDERED at West Palm Beach, Florida this 12TH day of AUGUST, 2016.


WILLIAM MATTHEWMAN
UNITED STATES MAGISTRATE JUDGE

JACOBS & BARBONE, P.A.
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
1125 PACIFIC AVENUE
ATLANTIC CITY, N.J. 08401

ADDRESS CORRECTION REQUESTED

Chm

SOUTH JERSEY NJ 080
31 AUG 2021 PM 7 L

NEOPOST
08/31/2021
US POSTAGE \$000.73



ZIP 08401
041M11295317

Ruby J. Krajick, Clerk
U.S. District Court, Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

10007-150723

